

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
WENDELL PATILLO,

Index No.

Plaintiff,

- against -

VERIFIED COMPLAINT

THE CITY OF NEW YORK, DAMIAN RIVERA,
JEREMY VEIT, and RICARDO BOCACHICA,

Defendants.
-----X

Plaintiff, complaining of the defendants, by his attorneys,
BREADBAR, GARFIELD & SCHMELKIN, ESQS., hereby sets forth and alleges,
upon information and belief, as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. That, at all times hereinafter mentioned, and on
June 11, 2011, the plaintiff, **WENDELL PATILLO**, was and still is a
resident of the County of Bronx, City and State of New York.

2. That, at all times hereinafter mentioned, and on June 11,
2011, the defendant, **THE CITY OF NEW YORK**, was and still is a
domestic municipal corporation, duly organized and existing under and
by virtue of the laws of the State of New York.

3. That, at all times hereinafter mentioned, and on
June 11, 2011, the defendant, **DAMIEN RIVERA**, (hereinafter referred
to as "**RIVERA**"), was and still is a resident of the City and State
of New York.

4. That, at all times hereinafter mentioned, and on June 11, 2011, the defendant, **JEREMY VEIT**, (hereinafter referred to as "**VEIT**"), was and still is a resident of the City and State of New York.

5. That, at all times hereinafter mentioned, and on June 11, 2011, the defendant, **RICARDO BOCACHICA**, (hereinafter referred to as "**BOCACHICA**"), was and still is a resident of the City and State of New York.

6. That, the plaintiff, **WENDELL PATILLO**, has complied with all the conditions precedent to the commencement of the within action against the defendant, **THE CITY OF NEW YORK**; plaintiff's Notice of Claim was served on August 25, 2011 within ninety (90) days of the date that the within cause of action having been caused to accrue; that thirty (30) days have elapsed and the claim remains unpaid and unadjusted; that, the plaintiff, **WENDELL PATILLO**, testified at an oral examination pursuant to the General Municipal Law on January 9, 2012; and, that this action is being commenced herewith within one (1) year and ninety (90) days of the date that the within cause of action having been caused to accrue.

7. That, on June 11, 2011, the plaintiff, **WENDELL PATILLO**, was assaulted/battered by the defendant, and/or defendants by and through their agents, servants and/or employees.

8. That, the plaintiff, **WENDELL PATILLO**, was assaulted/battered without justification and without cause and without excuse.

9. That, the assault/battery took place in front of premises known as 555 East 178th Street, in the County of Bronx, City and State of New York, and other locations wherein the plaintiff, **WENDELL PATILLO** was held against his will by the defendant and/or defendants, their agents, servants and/or employees.

10. That, at all times hereinafter mentioned and on June 11, 2011, and for sometime prior thereto, defendant, **RIVERA**, was a New York City police officer, and/or agent servant and/or employee of the City, working in the scope and course of his employment as a New York City Police Officer, and was employed by the defendant, **THE CITY OF NEW YORK**.

11. That, at all times hereinafter mentioned and on June 11, 2011, and for sometime prior thereto, defendant, **VEIT**, was a New York City police officer, and/or agent servant and/or employee of the City, working in the scope and course of his employment as a New York City Police Officer, and was employed by the defendant, **THE CITY OF NEW YORK**.

12. That, at all times hereinafter mentioned and on June 11, 2011, and for sometime prior thereto, defendant, **BOCACHICA**, was a New York City police officer, and/or agent servant and/or employee of the City, working in the scope and course of his employment as a New York City Police Officer, and was employed by the defendant, **THE CITY OF NEW YORK**.

13. That, the aforementioned assault and battery of the plaintiff, **WENDELL PATILLO**, was carried out by police officers and/or other servants, agents and/or employees of the defendant, and/or defendants.

14. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

15. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions, as well as the defendant, and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

16. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A SECOND CAUSE OF ACTION

17. That, the plaintiff, **WENDELL PATILLO**, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 16 with the same force and effect as if hereinafter more fully set forth at length herein.

18. That, all of the aforementioned acts, committed by police officers, servants, and/or other employees of the defendant, **THE CITY OF NEW YORK**, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, **THE CITY OF NEW YORK**.

19. That the defendant, **THE CITY OF NEW YORK**, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants and/or other employees, who were employed by the defendant, **THE CITY OF NEW YORK**.

20. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of the defendant, **RIVERA**, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, **THE CITY OF NEW YORK**.

21. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of the defendant, **VEIT**, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, **THE CITY OF NEW YORK**.

22. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of the defendant, **BOCACHICA**, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, **THE CITY OF NEW YORK**.

23. That, the defendant, **THE CITY OF NEW YORK**, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants, and/or other employees, including, but not limited to defendant, **RIVERA**, who was employed by the defendant, **THE CITY OF NEW YORK**.

24. That, the defendant, **THE CITY OF NEW YORK**, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants, and/or other employees, including, but not limited to defendant, **VEIT**, who was employed by the defendant, **THE CITY OF NEW YORK**.

25. That, the defendant, **THE CITY OF NEW YORK**, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants, and/or other employees,

including, but not limited to defendant, **BOCACHICA**, who was employed by the defendant, **THE CITY OF NEW YORK**.

26. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo and medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

27. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving the defendant and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

28. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A THIRD CAUSE OF ACTION

29. That the plaintiff, **WENDELL PATILLO**, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 28 with the same force and effect as if hereinafter more fully set forth at length herein.

30. That, on June 11, 2011 the plaintiff, **WENDELL PATILLO**, was caused to be falsely arrested and falsely imprisoned

without probable cause.

31. That, the plaintiff, **WENDELL PATILLO**, was arrested without an arrest warrant.

32. That, the false arrest/false imprisonment took place in front of premises known as 555 East 178th Street, in the County of Bronx, City and State of New York, and other locations and wherein the plaintiff, **WENDELL PATILLO** was held against his will by the defendant and/or defendants, their agents, servants and/or employees.

33. That, the aforementioned false arrest and false imprisonment of the plaintiff, **WENDELL PATILLO**, was carried out by police officers and/or other servants, agents and/or employees of the defendant, **THE CITY OF NEW YORK**.

34. That, the aforementioned false arrest and false imprisonment of the plaintiff, **WENDELL PATILLO**, was carried out by defendant, **RIVERA**, and/or other servants, agents and/or employees of the defendant, **THE CITY OF NEW YORK**.

35. That, the aforementioned false arrest and false imprisonment of the plaintiff, **WENDELL PATILLO**, was carried out by defendant, **VEIT**, and/or other servants, agents and/or employees of the defendant, **THE CITY OF NEW YORK**.

36. That, the aforementioned false arrest and false imprisonment of the plaintiff, **WENDELL PATILLO**, was carried out by

defendant, **BOCACHICA**, and/or other servants, agents and/or employees of the defendant, **THE CITY OF NEW YORK**.

37. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

38. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions as well as the defendant and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

39. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A FOURTH CAUSE OF ACTION

40. The plaintiff, **WENDELL PATILLO**, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 39, with the same force and effect as if hereinafter more fully set forth at length herein.

41. That, the aforementioned false arrest and false imprisonment of the plaintiff, **WENDELL PATILLO**, was caused due to a malicious prosecution of the plaintiff, **WENDELL PATILLO**, without probable cause, without reasonable cause, and without color of the law.

42. That, the arresting and investigating police, who were police officers, and/or other agents, servants or were other employees of the defendant, **THE CITY OF NEW YORK**, failed to make a proper and through investigation of the facts, failed to make proper inquiries resulting in the false arrest and false imprisonment of the plaintiff, **WENDELL PATILLO**, was maliciously prosecuted without probable cause, without reasonable cause, and without color of the law.

43. That, upon information and belief, all criminal charges against the plaintiff, **WENDELL PATILLO**, were ultimately dismissed on June 13, 2011, in the County of Bronx, City and State of New York, before Judge C. Feinman under docket number 2011BX033219.

44. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

45. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions as well as the defendant and/or defendants, having acted in reckless disregard for the safety of others.

46. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A FIFTH CAUSE OF ACTION

47. The plaintiff, **WENDELL PATILLO**, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 46, with the same force and effect as if hereinafter more fully set forth at length herein.

48. That by reasons of the allegations as set forth in all of the aforementioned causes of actions, including, but not limited to the plaintiff's false arrest, false imprisonment, assault and battery, malicious as well as prosecution due to the negligence of the defendant and/or defendants, in the negligent hiring, negligent retention, and negligent training of its various employees and/or police officers, the plaintiff, **WENDELL PATILLO**, was caused to have his civil rights under 42 U.S.C. Section 1983 and other statutes violated by the defendant and/or defendants, herein.

49. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, was injured; was rendered sick, sore, lame and

disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

50. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving the defendant and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

51. That, by reason of the foregoing, the plaintiff, **WENDELL PATILLO**, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

WHEREFORE, plaintiff, **WENDELL PATILLO**, demands judgment against the defendants, on the First, Second, Third, Fourth and Fifth causes of actions in an amount in excess of the jurisdictional limits of all of the lower Courts of the State of New York; together with interest, as well as the costs and disbursements of these causes of action.

Dated: New York, New York
January 24, 2012

Yours, etc.

BREADBAR, GARFIELD & SCHMELKIN
Attorneys for Plaintiff,
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New York, New York 10007
(212) 227-8865

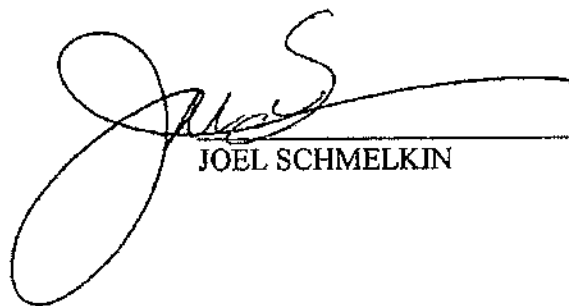
ATTORNEYS VERIFICATION

JOEL SCHMELKIN, an attorney admitted to practice law in the State of New York, affirms the following under the penalties of perjury:

I am a member of the law firm of Breadbar, Garfield & Schmelkin, the attorneys of record for the plaintiff in the within action; I have read the foregoing **SUMMONS and VERIFIED COMPLAINT** and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief and that as to those matters, I believe it to be true. This verification is made by me and not by the plaintiff for the reason that plaintiff does not reside within the County where Breadbar, Garfield & Schmelkin maintains its office.

The grounds of my belief as to all matters not stated upon my knowledge are conversations with plaintiff and contents of the file maintained by Breadbar, Garfield & Schmelkin.

Dated: New York, New York
January 24 2012



JOEL SCHMELKIN

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Year 20

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

WENDELL PATILLO,

Plaintiff,

-against-

THE CITY OF NEW YORK, DAMIAN RIVERA, JEREMY VEIT and RICARDO BOCACHICA,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

BREADBAR, GARFIELD & SCHMELKIN

Attorneys for Plaintiff(s)

Office and Post Office Address, Telephone

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NEW YORK, N.Y. 10007

TEL: (212) 227-8865

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom, and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: JANUARY 24, 2012

Signature

Print Signer's Name Joel Schmelkin

Service of a copy of the within

Dated:

is hereby admitted.

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

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NOTICE OF
ENTRY

that the within is a (certified) true copy of a
entered in the office of the clerk of the within-named Court on

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NOTICE OF
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the
Hon. _____, one of the judges of the within-named Court,
at _____
on _____

20

, at

M.

Dated:

BREADBAR, GARFIELD & SCHMELKIN

Attorneys for Plaintiff(s)

To:

Office and Post Office Address, Telephone

11 PARK PLACE, 10TH FLOOR

NEW YORK, N.Y. 10007